

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 213 of 2006

Date of decision: 14.09.2006.

Chander Mohan

..... Petitioner.

Versus

Raj Kumar & others

..... Respondents

CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA

Present:- Mr.B.R. Mahajan, Advocate
for the petitioner.

Mr. Suvir Sehgal, Advocate
for respondent No.6.

P.S. PATWALIA, J. (ORAL)

The present revision petition has been filed against the order dated 14.10.2005 passed by the Civil Judge (Junior Division), Amritsar, vide which an application filed by the defendant seeking amendment in the written statement was declined. The suit was filed on 01.06.1996 and still remains pending at the trial stage.

Learned counsel for the defendants in the suit, submits that once the Court had allowed the respondent-plaintiffs to amend the suit, it could not have frustrated the right of the defendants for filing the amended written statement to the plaint.

A perusal of the documents on the record as also the order passed by the trial Court would show that only a typographical error in the number of the property mentioned in the title of the suit was sought to be corrected by way of amendment. The number was wrongly mentioned as 206 and was sought to be corrected as 208 in the title of the suit. I have gone through the original plaint and also gone through the amended plaint. It is clear from the reading of the plaint that in the body of the plaint, the number 208 has been rightly referred to at more than one place. Therefore the amendment was allowed and the error was permitted to be corrected.

Thereafter the trial Court allowed the petitioner to file an amended written statement. However, in the guise of filing written statement, the petitioner wanted to raise a number of fresh/new pleas. By way of illustration a reading of the original written statement and the amended written statement would show that while referring the statement made by Sham Lal, father of defendant no.3 in the earlier suit and mentioned in para 3 the same was not specifically denied in the original written statement whereas in the guise of the amended written statement, a stand was sought to be taken that Sham Lal has not made any such statement before any Court.

In these circumstances, the trial Court was of the view that the plaintiff had been allowed amendment only to correct typographical mistake in the title of the suit. However, the defendants by seeking present amendment in the written statement wanted to change the nature of their defence. This was being done at the stage when the entire evidence of the parties had been concluded and the matter was fixed for arguments. Under these circumstances, the Trial Court had declined the amendment with the

following observations:

“From the perusal of the file, I am of the considered opinion that plaintiffs were allowed amendment due to typographical mistake, but defendants by seeking present amendment in the written statement want to change the nature of defence and no new cause of action has arisen to the defendants to seek amendment and the proposed amendment is not necessary for determination of the real question of controversy, as the amendment is being sought malafide and the proposed amendment do not fall in the category of subsequent events, as argued by the counsel for the defendants and application has been filed just to delay the present proceedings. No amendment at this stage can be allowed when the case is fixed for final arguments. So the application deserves dismissal. It is ordered accordingly.”

I find no error in the view taken by the trial Court in refusing the amendment at a stage when the suit had been fixed for final arguments and in view of the fact that it was only a typographical error in the title of the plaint, which was permitted to be corrected. I, therefore, find no merit in this revision petition. Accordingly, the same is dismissed.

The observations made herein above are for the purpose of deciding the revision petition and shall have no bearing on the final adjudication of the controversy before the trial Court.

September 14, 2006
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(P.S. PATWALIA)
JUDGE